



Written by [Elad Hakim](#) on August 31, 2021

## Supreme Court Moratorium Decision a Roadblock to Democrat Quest for Total Government Power and Control

Following the U.S. Supreme Court's ruling ending the eviction moratorium, House Speaker [Nancy Pelosi](#) immediately criticized the court's ruling, calling it "arbitrary and cruel." Not only was Pelosi's characterization of the court's ruling wrong, but it also provided yet another example of the Democrats' unrelenting quest for unfettered power and control over the American people.

In [Alabama Association of Realtors. v. Department of Health and Human Services](#), the Supreme Court ruled that the Centers for Disease Control and Prevention's (CDC) nationwide moratorium on evictions of any tenants who live in a county that is experiencing substantial or high levels of COVID-19 transmission and who make certain declarations of financial need was improper.

In response to the ruling, [Pelosi](#) was quoted as saying:

Earlier this month, thanks to the leadership of President Biden and Congressional Democrats, the imminent fear of eviction and being put out on the street was lifted for countless families across America with the issuing of a new CDC eviction moratorium. Last night, the Supreme Court immorally ripped away that relief in a ruling that is arbitrary and cruel.

Pelosi's attack on the Supreme Court's ruling reflects a misunderstanding of the law and further evinces the Democrats' continued and dangerous efforts to provide the federal government with unfettered power over the American people.

As the [high court](#) noted, the CDC relied on §361(a) of the Public Health Service Act for authority to promulgate and extend the eviction moratorium. That provision states:

The Surgeon General, with the approval of the [Secretary of Health and Human Services], is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest



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extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

As Justice [Brett Kavanaugh](#) noted for the majority, “Regulations under this authority have generally been limited to quarantining infected individuals and prohibiting the import or sale of animals known to transmit disease.”

The [court](#) rejected the argument that the first sentence in the statute, in and of itself, authorized the CDC’s broad moratorium. Rather, the second sentence provided the specific regulations that were available to protect against the interstate spread of disease, and both sentences had to be read/considered together, not individually. As the [majority](#) correctly pointed out:

These measures directly relate to preventing the interstate spread of disease by identifying, isolating, and destroying the disease itself. The CDC’s moratorium, on the other hand, relates to interstate infection far more indirectly: If evictions occur, some subset of tenants might move from one State to another, and some subset of that group might do so while infected with COVID-19. See 86 Fed. Reg. 43248-43249. This downstream connection between eviction and the interstate spread of disease is markedly different from the direct targeting of disease that characterizes the measures identified in the statute. Reading both sentences together, rather than the first in isolation, it is a stretch to maintain that §361(a) gives the CDC the authority to impose this eviction moratorium.

The [majority](#) also rejected the argument that the phrase “other measures” that the Surgeon General deems “necessary” provided the CDC with the necessary authority to extend the eviction moratorium. As the majority noted, the Constitution provides that those laws not specifically granted or reserved to the federal government belong to the states. In this case, the CDC’s broad moratorium would not only have a major [financial burden](#) (it impacts at least 80 percent of the country and between six and 17 million tenants), but would also intrude on an area that is within the province of state law, namely landlord tenant law. The [court](#) noted that, “Our precedents require Congress to enact exceedingly clear language if it wishes to significantly alter the balance between federal and state power and the power of the Government over private property.” In this case, the statute contained no specific authority authorizing the CDC’s moratorium. Therefore, the moratorium was invalid until Congress specifically and properly authorized such conduct.

The majority’s opinion was quite clear and sensical. Why, then, would Pelosi criticize the decision, which appeared to be very well-reasoned? Why would she use such terms as “arbitrary and cruel” when describing the court’s ruling? The answer is quite clear. Pelosi (and many Democrats) want the federal government to have total and unfettered control over the American people, and this opinion stands in their way.

If Democrats (including Pelosi) had their druthers, it is quite likely that the CDC would have enjoyed blanket authority to issue moratoriums and to take whatever measures it wanted in the name of “fighting or preventing disease.” They undoubtedly would have supported/endorsed a very broad reading of the statutory language allowing the Surgeon General to literally use [any] “other measures” that he/she deemed “necessary.” Such a broad reading of the statute would result in unprecedented control and power, which perfectly aligns with the Democrats’ agenda. Fortunately, the court’s [majority](#)



recognized this, stating:

Indeed, the Government's read of §361(a) would give the CDC a breathtaking amount of authority. It is hard to see what measures this interpretation would place outside the CDC's reach, and the Government has identified no limit in §361(a) beyond the requirement that the CDC deem a measure "necessary." 42 U. S. C. §264(a); 42 CFR §70.2. Could the CDC, for example, mandate free grocery delivery to the homes of the sick or vulnerable? Require manufacturers to provide free computers to enable people to work from home? Order telecommunications companies to provide free high-speed Internet service to facilitate remote work?

This claim of expansive authority under §361(a) is unprecedented. Since that provision's enactment in 1944, no regulation premised on it has even begun to approach the size or scope of the eviction moratorium. And it is further amplified by the CDC's decision to impose criminal penalties of up to a \$250,000 fine and one year in jail on those who violate the moratorium. See 86 Fed. Reg. 43252; 42 CFR §70.18(a). Section 361(a) is a wafer-thin reed on which to rest such sweeping power.

Justice Kavanaugh was exactly right. In rendering its opinion, the Supreme Court wasn't insensitive to the effects of COVID, or to those who would possibly face eviction. Nor did the Supreme Court immorally rip away relief by way of a ruling that was "arbitrary and cruel." Rather, the Supreme Court followed the law and the Constitution. In doing so, whether intentionally or unintentionally, the high court refused to fall victim to the Democrats' push to create an "all-powerful," and "all-controlling" federal government.

In reality, Pelosi was upset with the recent ruling because it served as a roadblock to the Democrats' relentless pursuit of total power and complete control, which has reared its ugly head in other Democrat-led efforts and bills. For example, many Democrats continue to push for federally enforced vaccination and/or mask mandates. They also continue to push for federal control over the nation's elections by way of bills such as H.R. 1 and H.R. 4. Democrats falsely present these bills/proposals as a way to create "equity" or "fairness." In reality, they are efforts to assert power and control at any cost.

Fortunately, in this case, the Supreme Court put its foot down and prevented the federal government from improperly asserting the control it so desperately seeks.



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